IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4148 of 1996

Date of Decision: 26.9.2007

Baldev Singh

..Petitioner.

Vs.

Mangat Ram and others

..Respondents.

CORAM: HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.Gurmit Singh, Advocate for the petitioner.

Mr.L.N.Verma, Advocate for respondents No.1 and 2.

HEMANT GUPTA, J.

The tenant is in revision aggrieved against the order passed by Appellate Authority under Haryana Urban Control of (Rent and Eviction) Act, 1973 (hereinafter to be referred as the Act) whereby the petitioner was ordered to be evicted for non-payment of arrears of rent @ Rs.400/- per month.

The landlord sought ejectment of the petitioner on the ground that tenant was inducted as tenant in the year 1982 @ Rs.400/- per month but the tenant is in arrears of rent, house tax and electricity charges. The tenant took the stand that rent note dated 6.8.2002 is vague, bogus and sham document and that landlord has made a writing in the account books of the tenant that rent upto 28.2.1980 stands paid but from 1.3.1990 rent would be Rs.400/- per month. The stand of the tenant is that he was ready and willing to make payment @ Rs.250/- per month from 1.3.1990 but the landlord insisted on payment of Rs.400/- per month.

The learned Rent Controller dismissed the petition holding that the rate of rent is Rs.250/- per month and tender made by the tenant @

Rs.250/- per month is not short and invalid. However, the learned Appellate Authority returned a finding that in view of rent note Ex.A1, rate of rent is Rs.400/- per month and it is such rent, which is to be paid by the petitioner.

The finding that rate of rent is Rs.400/- per month, is based upon proper appreciation of evidence. Rent note Ex.A1 is proved on record. On the basis of such rent note, the finding of rate of rent cannot be disputed in the revision petition being a finding of fact based on evidence.

The question which arises is whether the petitioner is entitled to avail the opportunity to tender arrears of rent @ Rs.400/- as rent per month. Hon'ble Supreme Court in **Rakesh Wadhawan and others v. M/s Jagdamba Industrial Corporation and others AIR 2002 SC 2004** has held that tenant is entitled to another opportunity after determination of rate of rent in case of bonafide disputes regarding rent.

In view of aforesaid judgment, the petitioner is granted an opportunity to tender entire arrears of rent @ Rs.400/- per month by taking into consideration the rent already paid along with Rs.500/- as interest and cost of Rs.1000/-. If the entire arrears of rent, interest and cost as assessed is deposited within three months before Rent Controller, the ejectment petition shall stand dismissed else on account of failure of payment of arrears of rent, the petitioner shall be liable to be evicted.

The petition stands disposed of accordingly.

(Hemant Gupta)
Judge

26.9.2007
Meenu